

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION**

KEITH MILLER, individually and on behalf
of all other similarly situated individuals,

Case No.: 1:13-CV-2403-SCJ

Plaintiffs,

v.

FLEETCOR TECHNOLOGIES OPERATING COMPANY, LLC,

Defendant.

**JOINT STIPULATION FOR CONDITIONAL COLLECTIVE
CERTIFICATION**

Plaintiff Keith Miller (“Plaintiff”) and Defendant FleetCor Technologies Operating Company, LLC (“Defendant”) (collectively, the “Parties”) by and through their counsel of record, submit this Joint Stipulation for Conditional Collective Certification pursuant to Section 216(b) of the Fair Labor Standards Act (“FLSA”), 29 U.S.C. § 201, *et seq.*

WHEREAS, Plaintiffs filed this putative collective action under the FLSA on July 18, 2013 on behalf of himself and other similarly situated employees, pursuant to 29 U.S.C. § 216(b);

WHEREAS, an employee must file a consent to join any FLSA action before he or she is included as a party to that action;

WHEREAS, this case has not yet been conditionally certified by the Court as a collective action;

WHEREAS, the Parties agree to conditionally certify this FLSA action as a collective action as to Plaintiff and opt-in plaintiffs from the putative class in this action who have joined (and members of the putative class (as defined below) who subsequently join before any court-imposed deadline) for purposes of discovery, but dispute the proper scope of court-authorized notice to be sent to members of the putative collective class (as defined below) at this time. Specifically, Plaintiff contends that court-authorized notice of this action should be issued to the entire putative class (as defined below) and that any pre-certification written advertisements of the collective action and any other informal written communication sent to putative class members by Plaintiff or Plaintiff's counsel are not a substitute for court-authorized notice of this action to the putative class. Defendant contends that, since written notice of this action has already been sent to certain members of the putative class (with a case description and opt-in consent form), court-authorized notice of this action should only be sent to those in the putative class who were not previously provided written notice of this action. As noted below in paragraph 3, the parties intend to fully brief their competing positions on the proper scope, form, and manner of notice to putative collective members at this time.

WHEREFORE, the Parties **STIPULATE** and **AGREE**:

1. This case is to be conditionally certified as a collective action under 29 U.S.C. § 216(b). The conditionally certified collective shall be defined as any individual who worked for Defendant FleetCor Technologies Operating Company, LLC, in Norcross, Georgia, in the position of “Inside Sales Representative” or “Outbound Sales Representative” at any time from December 15, 2010 to August 1, 2013.
2. By this stipulation, Defendant does not concede that Plaintiffs are, in fact, similarly situated under the FLSA and Defendant reserves the right to file a motion for decertification of the conditionally certified class;
3. On or before **January 3, 2014**, Plaintiffs shall file a motion with the Court seeking approval for the proper scope of court-authorized notice and the form and manner of court-authorized notice to be sent to the putative collective members to inform them of their right to join this case. Defendant shall be allowed to file a response brief on or before **January 17, 2014**, and Plaintiffs shall be allowed to file a reply brief on or before, **January 31, 2014**.

Respectfully submitted,

Date: December 20, 2013

NICHOLS KASTER, PLLP

/s/ Rachhana T. Srey

Rachhana T. Srey, MN Bar No. 340133

srey@nka.com

Curtis P. Zaun, MN Bar No. 266310
czaun@nka.com
(Admitted pro hac vice)
4600 IDS Center, 80 South 8th Street
Minneapolis, MN 55402
Telephone: (612) 256-3200
ATTORNEYS FOR PLAINTIFFS

PHELPS DUNBAR LLP

/s/ Dennis M. McClelland
Dennis M. McClelland, FL Bar No. 296454
Florida Bar No. 0091758
dennis.mcclelland@phelps.com
(Admitted *pro hac vice*)
100 South Ashley Drive
Suite 1900
Tampa, Florida 33602
Telephone: (813) 472-7550
Facsimile: (813) 472-7570

And

Susan W. Furr
Louisiana Bar No. 19582
susie.furr@phelps.com
Brandi B. Cole
Louisiana Bar No. 32396
brandi.cole@phelps.com
(Admitted *pro hac vice*)

PHELPS DUNBAR LLP

II City Plaza
400 Convention Street
Suite 1100
Post Office Box 4412
Baton Rouge, Louisiana 70802
Telephone: (225) 346-0285
Facsimile: (225) 381-9197

ATTORNEYS FOR DEFENDANT

CERTIFICATE OF SERVICE

I hereby certify that on December 20, 2013, I electronically filed the following:

Joint Stipulation for Conditional Collective Certification

with the Clerk of the Court using the CM/ECF system which will send notification to the following counsel of record:

Dennis M. McClelland
Phelps Dunbar, LLP
100 South Ashley Drive, Suite 1900
Tampa, Florida 33602
dennis.mcclelland@phelps.com
Telephone: (813) 472-7550

James J. Swartz, Jr.
Teeka K. Harrison
Rafuse Hill & Hodges, LLP
1355 Peachtree Street, N.E., Suite 500
Atlanta, Georgia 30309
jimswartz@rafusehill.com
teekaharrison@rafusehill.com
Telephone: (404) 253-6000

Susan W. Furr
Brandi B. Cole
Phelps Dunbar, LLP
II City Plaza, Suite 1100
Post Office Box 4412
Baton Rouge, Louisiana 70802
susie.furr@phelps.com
brandi.cole@phelps.com
Telephone: (225) 346-0285

Dated: December 20, 2013

NICHOLS KASTER, PLLP

/s/ Rachhana T. Srey

Rachhana T. Srey, MN Bar No.
340133
srey@nka.com
4600 IDS Center, 80 South 8th Street
Minneapolis, MN 55402
Telephone: (612) 256-3200

ATTORNEYS FOR PLAINTIFFS